STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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June 4, 1993

Ms. Donna R. Searcy
Secretary of the Federal
Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Joint Petition of the Consumer

Federation of America and the National Cable

Television Association for Rulemaking and Request

for a Federal-State Joint Board - PM-8221:

for a Federal-State Joint Board - RM-8221;

DA 93-463

Dear Secretary Searcy:

Enclosed please find an original and nine copies of the Reply Comments of the New York State Department of Public Service in the above captioned proceeding.

Very truly yours,

Penny Rubin

Assistant Counsel

Enclosures

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Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

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In the Matter of

Joint Petition of the Consumer Federation of America and the National Cable Television Association for Rulemaking and Request for a Federal-State Joint Board RM-8221 DA 93-463

REPLY COMMENTS OF THE NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

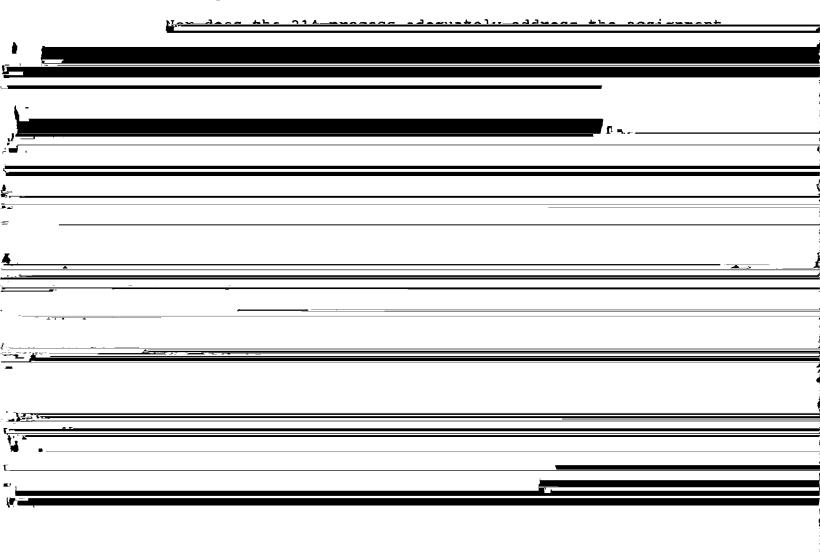
The New York State Department of Public Service (NYDPS) submits these reply comments in the above captioned proceeding. We support joint petitioners' request for commencement of a rulemaking to consider both cost allocation rules for video dialtone service and for establishment of a Federal-State Joint Board to examine the separations issues arising from plant used jointly for telephone and video transmission services.

The joint petitioners raise concerns similar to those brought forth by the NYDPS last December in the context of New York Telephone's filing for Section 214 authority to provide video dialtone service in New York City. At the time, we noted the lack of sufficient information by which to adequately determine how the regulated costs associated with New York Telephone's trial will be treated. We recommended that New York Telephone be required to provide additional detail concerning the

Protest of the New York State Department of Public Service, File No. W-P-C-6836 (Filed December 11, 1992), at 4-5.

assignment of its video dialtone trial costs and how the separated costs would be recovered.

We remain concerned about the treatment of video dialtone trial costs. Despite New York Telephone's assurances, for example, that it will directly assign all video dialtone facilities costs to its trial, the fact is that the company still has not specified in any detail on how it proposes to identify and assign those costs.² New York Telephone's continued reluctance to provide sufficient cost information to the Commission illustrates the inadequacy of the Section 214 process for dealing with cost allocation issues.



that only the incremental costs incurred in the provision of the video dialtone basic platform be assigned to the video dialtone trial.5 Where the same subscriber loop facilities are used to provide basic telephone and video dialtone services, some portion of those facilities' costs should be assigned to the regulated video dialtone platform. Assuming that the Commission continues to insist that video dialtone is an interstate service, then costs associated with video dialtone service -- both incremental and common costs -- should be assigned entirely to the interstate jurisdiction. In any event, it will be necessary to examine how costs associated with joint-use of subscriber loops shall be assigned and jurisdictionally separated. We therefore favor referring these issues to the 80-286 Joint Board, which was established specifically to examine jurisdictional separations procedures.

Lastly, accepting joint petitioner's request for a rulemaking need not delay the Commission's consideration of pending video dialtone applications. The Commission could defer the costs associated with the video dialtone trials pending completion of its rulemaking. A similar approach was employed successfully by the Commission for recovering the costs

⁵ Section 214 Application of the Chesaneake and Potomac

associated with equal access. We see no reason not to employ the same procedure here.

Sincerely,

William Cowen/se

William J. Cowan General Counsel

New York State Department of Public Service

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of NYDPS has been mailed by United States first class mail, postage prepaid, this 4th day of June 1993, to the parties listed below.

June 4, 1993

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DOCUMENT INDEX TERMS

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2.	 Rulemaking Number Date of filed document Name of Applicant/Petitioner 								8221											
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